

DOCKET NO: 215140US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
CHRISTIAN MARZOLIN, ET AL. : EXAMINER: CHEVALIER, A.
SERIAL NO: 09/926,367 :
FILED: JUNE 13, 2002 : GROUP ART UNIT: 1794
FOR: TEXTURED SUBSTRATE :
CAPABLE OF FORMING A GLAZING,
METHOD FOR OBTAINING SAME

REPLY BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The following Reply Brief is in reply to the Examiner's Answer dated August 15, 2008 (Answer).

The statement of the "Grounds of Rejection" (Answer at 3-6) is identical to the statement in the Final Rejection, which has already been responded to in the Appeal Brief. The following is in reply to the "Response to Argument" (Answer at 6-8).

As a preface to the following remarks, it is noted that the Examiner has responded to only some of the arguments in the Appeal Brief. Thus, it is respectfully submitted that arguments not responded to must be taken as correct.

The Examiner finds that the limitation --wherein said relief provides an angle of advance of a drop of water greater than such angle provided on a flat substrate, which is otherwise the same as said substrate but without said relief, without substantially changing the hysteresis obtained with the flat substrate-- (hysteresis limitation) in Claim 1 is "a

functional limitation and is deemed to be a latent property of the prior art since the prior art is substantially identical in composition and/or structure;” that Huang et al “clearly discloses substrate with the same relief” (citations omitted but identical to citations listed under “Grounds of Rejection”) and “the substrate comprising a silicone agent (*col. 7, line 29*);” and therefore, Huang et al “is substantially identical in composition and structure” (Answer at 6-7).

In reply, Applicants have already explained in the Appeal Brief why the structure of Huang et al “is **not** (emphasis in the Appeal Brief) substantially identical in composition and/or structure to the presently-claimed invention.” In addition, as discussed in further detail below regarding the separate patentability of Claim 2, Huang et al does **not** disclose a “silicone agent.”

In response to Applicants’ argument that Applicants’ invention seeks high angles of contact of water, such as on the order of 120°, as is clear from the description and more particularly the examples in the specification, the Examiner finds that such high angles of contact of water “are not stated in the claims” (Answer at 7).

In reply, Applicants’ argument was simply to point out an inherent property of the present invention, and how the property of such contact angles distinguishes over Huang et al.

The Examiner interprets the hysteresis limitation of the present claims as “only [requiring] that the angle of advance of a drop of water be greater than the angle of advance of a drop of water on a flat substrate. Any relief structure will have a greater angle of advance of a drop of water than a flat substrate of a corresponding material, since gravity will have more of an effect on the movement of the water drop on a non-uniform surface” (Answer at 7).

In reply, the Examiner's finding reveals a misunderstanding of the meaning of this limitation. The above-quoted limitation is not simply a matter of gravity but requires no substantial change in the hysteresis obtained with a flat substrate. Hysteresis is defined in the specification at page 3, lines 6-7 as the difference between the angle of advance and the angle of retreat. As further described beginning at page 3, line 7, a drop of water having a high hysteresis or a small angle of retreat likely would have difficulty flowing on a substrate and thus it is easily understood that an effective hydrophoby is conditioned by both a large angle of advance and a low hysteresis.

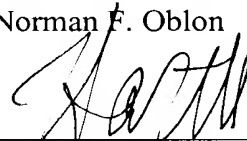
With regard to Applicants' argument of separate patentability of Claim 2, the Examiner finds that her previous finding was a typographical error, and that the Examiner intended to find that Huang et al discloses a siloxane, not a silicone, relying on the disclosure at column 7, line 29 (Answer at 7-8).

In reply, a siloxane, unless in polymeric form, i.e., a polysiloxane, cannot be a silicone. The siloxanes listed in Huang et al are examples of coupling agents, of which the Board can take judicial notice are generally low molecular weight compounds.

With regard to the rejection under 35 U.S.C. § 103(a) (Answer at 8), Applicants rely on their arguments in the Appeal Brief.

Respectfully submitted,

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